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HOT TOPIC, INC. d/b/a HOT TOPIC and TORRID

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KAKU LAB CORPORATION,
Plaintiff,

v.

HOT TOPIC, INC., a California
Corporation; and DOES 1 through 20,
inclusive,

Defendants.

Case No. C07-05297 CRB

JOINT RULE 26(f) REPORT

Counsel for Plaintiff Kaku Lab Corporation ("Plaintiff"), and counsel for Defendant Hot Topic, Inc. ("Defendant"), held the conference of the parties as required by Federal Rule of Civil Procedure 26(f). The parties now submit the following Joint Rule 26(f) Report and Discovery Plan:

I. Claims and Defenses:

This is an action for federal copyright infringement by Plaintiff Kaku Lab Corporation against Defendant Hot Topic, Inc., doing business as Hot Topic and Torrid. Plaintiff alleges that Defendant is selling various string "voodoo doll" accessories that infringe on its copyrighted voodoo doll designs. Specifically, Plaintiff alleges that Defendant has infringed the following copyrights: (1) "Lover Boy/In Love," registration no. VA 1-359-086; (2) "Judo Sensei/Konfu Kid," registration no. VA 1-359-091; (3) "Sid/Mr. T," VA 1-353-127; (4) "Red Devil/Demon Guard," registration no. VA 1-353-187; (5) "The Vampire/Dracula," VA 1-359-085; (6) "Jo Ninja/Ninja," registration no. VA 1-359-088; (7) "The Zombie/Voodoo Me," registration no. VA 1-353-128.

Defendant has filed an Answer to Plaintiff's First Amended Complaint denying the material allegations, and asserting various defenses, including: (1) failure to state a claim; (2) merger/scenes a faire; (3) mitigation; (4) innocent intent; (5) license; (6) lack of originality; (7) failure to register; (8) waiver; (9) estoppel; (10) lack of jurisdiction; (11) lack of standing; and (12) failure to join a necessary party.

II. Discovery Status and Discovery Plan**A. Initial Disclosures**

The parties have stipulated to make the disclosures required by Federal Rule of Civil Procedure 26(a)(1) on or before March 31, 2008.

B. Discovery Plan

The parties have not engaged in any formal discovery efforts to date. The parties do not wish to make any changes to the form or requirement of initial disclosures under Rule 26(a). The parties have tentatively agreed to the following discovery plan:

(1) Discovery shall commence immediately after the initial disclosure deadline, i.e., March 31, 2008.

(2) All discovery, except expert discovery shall conclude by December 1, 2008.

(3) Expert discovery shall conclude by February 1, 2009.

1 (4) The parties adopt Rule 26(b)(1) concerning the scope of discovery in this case. The
2 parties do not believe that the phasing of discovery is necessary. Discovery will be necessary on
3 all liability and damages issues. Without limiting the scope of discovery, Plaintiff will seek
4 discovery regarding Defendant's acquisition of the alleged infringing products, and Defendant's
5 sale of the alleged infringing products. Without limiting the scope of discovery, Defendant will
6 seek discovery regarding creation of the subject works, the original artwork, materials relied on
7 in creating the subject works, ownership and transfer of the subject works, derivative works,
8 registration, Plaintiff's sales of products using the subject works, licensing of the subject works,
9 harm caused by the alleged infringement, alleged value of the subject works, and Plaintiff's
10 damages, if any, caused by the alleged infringement.

11 (5) The parties do not anticipate any issues regarding the discovery of electronically stored
12 information. The parties will agree on the form of production of electronic discovery upon
13 further discussion regarding electronic documents that may be available.

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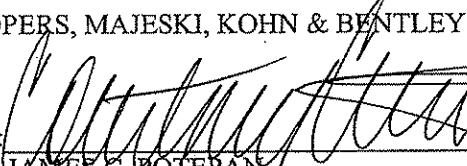
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1 (6) The parties have agreed that this case warrants entry of an appropriate protective order
2 regarding the handling of privileged and/or confidential information. The parties anticipate filing
3 a stipulated proposed protective order before formal discovery commences.
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5 Dated: March 31, 2008
6

7
8 By: 
9 SHAWN T. LEUTHOLD
10 Attorney for Plaintiff KAKU LAB
11 CORPORATION

12 Dated: March 31, 2008
13

14 ROPERS, MAJESKI, KOHN & BENTLEY
15 By: 
16 JAMES C. POTEPAN
17 COURTNEY E. CURTIS
18 Attorneys for Defendant
19 HOT TOPIC, INC. D/B/A HOT TOPIC
20 AND TORRID
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CASE NAME: *Kaku Lab Corporation v. Hot Topic, Inc., et al.*

ACTION NO.: C 07-05297 CRB

PROOF OF SERVICE

I am a citizen of the United States. My business address is 515 South Flower Street, Suite 1100, Los Angeles, California 90071. I am employed in the County of Los Angeles where this service occurs. I am over the age of 18 years, and not a party to the within cause. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

On the date set forth below, following ordinary business practice, I served a true copy of the foregoing document described as:


JOINT RULE 26(f) REPORT

- ☐ (BY FAX) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date before 5:00 p.m.
- ☒ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.
- ☐ (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).
- ☐ (BY OVERNIGHT DELIVERY) I caused such envelope(s) to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) on whom it is to be served.

*** SEE SERVICE LIST ***

- ☒ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 31, 2008, at Los Angeles, California.


Jennie Cecchini

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SERVICE LIST

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